

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number E-1879 (130105.422)
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 10/712,983	Filed November 13, 2003
	First Named Inventor Curtis Lee Carrender	
	Art Unit 3687	Examiner Oger Garcia Ade
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%;"> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96.)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration No. <u>31,800</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> </div> <div style="width: 35%; text-align: right;"> <p>_____ /E. Russell Tarleton/ Signature</p> <p>_____ E. Russell Tarleton Typed or Printed Name</p> <p>_____ (206) 622-4900 Telephone Number</p> <p>_____ January 10, 2011 Date</p> </div> </div> <p style="font-size: small; margin-top: 10px;">NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>		
<input type="checkbox"/> *Total of _____ forms are submitted.		

SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Curtis Lee Carrender et al.
Application No. : 10/712,983
Filed : November 13, 2003
For : SYSTEM FOR ROUTING AND TRACKING DELIVERABLES
Examiner : Oger Garcia Ade
Art Unit : 3687
Docket No. : E-1879 (130105.422)
Date : January 10, 2011

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents:

Claims 1, 3, 5-9, and 11-15 are pending. Claims 1, 3, 5-13, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Issacman et al. (U.S. 6,127,928) in view of Streetman (U.S. 2004/0054570) and further in view of Kato et al. (U.S. 2003/0014143). Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Issacman in view of Streetman and Kato and further in view of Swift et al. (U.S. 2003/0187796).

This is a straight-forward case of Examiner conduct in which an Office Action issued that failed to meet a prima facie case of obviousness and that failed to respond to a prior Amendment submitted by the Applicants.

On December 24, 2009, the Examiner issued a non-final Office Action rejecting all of the claims. Applicants responded with revised claims and responsive arguments on the merits via an Amendment filed on March 24, 2010. Applicants also requested a telephonic interview with an Applicant Initiated Interview Request Form filed concurrently with the Amendment.

On July 8, 2010, the Examiner issued a final Office Action rejecting all claims on the same grounds as the previous Office Action. While the Office Action Summary referenced the Amendment filed March 24, 2010, the first page of the Detailed Action referenced Applicants' prior Amendment filed on September 25, 2009. The Examiner failed to address the amended claims of Applicants' arguments in the Amendment filed March 24, 2010. Instead, the Examiner merely repeated the language of the prior non-final Office Action and ignored applicant's amendment and responsive arguments.

Applicants' representatives attempted on many occasions to reach the Examiner by telephone. On two occasions the Examiner picked up the phone and indicated that he would review the case and determine if the finality of the Office Action should be removed. However, no communication was ever received from the Examiner.

In order to preserve its rights, on September 8, 2010, Applicants refiled the Amendment of March 24, 2010, as a response to the final Office Action and explained Applicants' position. Applicants continued to attempt to reach the Examiner by telephone, leaving numerous messages, all of which were not acknowledged. Applicants' representatives spoke with the Examiner's supervisor, Examiner Gart on several occasions, and were told that Examiner Ade had family problems and was out of the office. Supervisory Examiner Gart indicated he would talk with the Examiner. Again, no follow-up response was forthcoming from Examiner Ade or Supervisory Examiner Gart.

Applicants have been unfairly forced to file this Notice of Appeal and to pay extension of time fees in order to preserve their rights. Moreover, the Examiner has failed to respond substantively to Applicants' Amendment submitted on March 24, 2010. For at least these reasons, Applicants respectfully submit that the Examiner has still not carried his burden of showing that the cited references teach and suggest the system as set forth in the claims of the Amendment filed March 24, 2010, and entered in this case.

Applicants respectfully request that:

- (1) The finality of the Office Action mailed July 8, 2010, be removed;
- (2) Applicants' extension of time fees and Notice of Appeal fee be refunded to their deposit account; and
- (3) An action on the merits be issued.

Respectfully submitted,

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